



U.S. Department of Justice

United States Attorney  
Eastern District of New York

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271 Cadman Plaza East  
Brooklyn, New York 11201

February 20, 2025

**VIA ECF**

Honorable Vera M Scanlon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Erick Diaz Cruz v. United States of America*  
No. 20-CV-891 (EK) (VMS)

Dear Judge Scanlon:

This Office represents Defendant United States of America in the above-referenced action. The United States writes on behalf of the parties in compliance with the Court's February 10, 2025 Order requiring a joint letter "containing the dates agreed upon for depositions taking into account the expected availability of the party and non-party witnesses." See ECF Order dated February 10, 2025.

By way of background, Plaintiff Erick Diaz Cruz commenced this action against Immigration and Customs Enforcement ("ICE") Officer Henry V. Santana ("Defendant Santana"), asserting claims pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), stemming from a February 6, 2020 shooting incident. See ECF No. 1. On April 20, 2021, Plaintiff filed an Amended Complaint that, *inter alia*, added claims pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2401(b), 2671-2680 against the United States arising from the same incident. See ECF No. 29 ("Amended Complaint").<sup>1</sup>

After conferring, the parties have agreed on the following dates for fact depositions:

- Officer Henry Santana to be deposed on February 27, 2025
- Officer Sherman Chan to be deposed on March 26, 2025
- Plaintiff Erick Diaz Cruz to be deposed on March 31, 2025<sup>2</sup>

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<sup>1</sup> On March 20, 2023, following briefing by Defendant Santana and Plaintiff, this Court dismissed the *Bivens* claims against Defendant Santana, leaving the United States as the sole defendant in this action. See Dkt. No. 67 (Court's Memorandum & Order).

<sup>2</sup> As the parties mentioned at the February 6, 2025 status conference, Plaintiff does not live in the United States. Because his deposition is scheduled to take place in person, travel and other arrangements will need to be made in

Plaintiff also contacted non-party witness Biram Zlita. The parties are still working to accommodate his schedule but expect his deposition to go forward the week of March 17.

The parties thank the Court for reviewing this submission.

Respectfully submitted,

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cc: All attorneys of record via ECF

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order for him to appear. Given that those arrangements have not yet been finalized, the parties reserve the right to request permission to move the date of Plaintiff's deposition to another date in March, or to request permission to take Plaintiff's deposition beyond the March 31, 2025 deadline for the close of fact discovery.